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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,701	12/12/2001	Wah Yiu Kwong	ITL0681US (P12999)	9547
21906 7590 01/29/2010 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER				
BAUM, RONALD				
ART UNIT		PAPER NUMBER		
2439				
MAIL DATE		DELIVERY MODE		
01/29/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/020,701

Applicant(s)

K'WONG ET AL.

Examiner

RONALD BAUM

Art Unit

2439

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-11 and 13-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Edan Orgad/
Supervisory Patent Examiner, Art Unit 2439

Continuation of 11. does NOT place the application in condition for allowance because: As per applicant's argument concerning the lack of teaching by Clough of standard operating systems in use relative to the 'Ultimaco' software, the examiner has fully considered in this response to the request for consideration; the arguments, and finds them not to be persuasive. At the very least, the MS Windows line of operating systems encompassing the setup preboot characteristics of interest start with DOS, Windows 1.0-2.10; all with release dates prior to the 1988 Clough invention date. Further, the setup aspect associated with the preboot password functions were part of the actual PC standards as released starting in the early 1980's.

As per applicant's argument concerning the lack of teaching by Clough of password associated with a GUI at the time of the Clough invention, as pertaining again to the preboot aspects, the examiner has fully considered in this response to the request for consideration; the arguments, and finds them not to be persuasive. Again, at the very least, the MS Windows line of operating systems setup preboot password entry characteristics clearly require the user entering something (e.g., the password in the bios) to be viewing the display/LCD screen, etc., that is clearly something created by a GC/GCI hardware or hardware/software (i.e., firmware) circuit/function.

As per applicant's argument concerning the lack of teaching by Clough of password associated with a GUI at the time of the Clough invention during preboot aspects, insofar as a need to do it is concerned, the examiner has fully considered in this response to the request for consideration; the arguments, and finds them not to be persuasive. The rejection is a '103 rejection, and the obvious added aspect is the fact that a processing platform, and more succinctly a portable processing platform (e.g., portable, laptop, tablet, etc., PC), would obviously require some level of security from unauthorized processor resources access, for which the Clough invention addresses such a need (i.e., security has been around for computers since mainframes, let alone portable microprocessor based systems).

As per applicant's argument concerning the lack of teaching by Clough of password comparison associated with a GUI at the time of the Clough invention during preboot aspects, the examiner has fully considered in this response to the request for consideration; the arguments, and finds them not to be persuasive. As described above, and in previous office action rejections of record, the GC/GCI is clearly associated with the user interaction with the device in question (i.e., the user is not doing anything that requires entering information into the device where he can't see what he is doing via the display, LCD screen, etc., that is clearly a function of something created by a GC/GCI hardware or hardware/software (i.e., firmware) circuit/function. The Clough interactive keyboard clearly shows GC/GCI interaction (e.g., Clough col. 2, lines 16-63).

Again, the claim language does not sufficiently qualify the GUI/GC, insofar as claiming the GC in a way that excludes it from the inherent processing functions of a Clough type device/application. More succinctly, the examiner suggests that to further advance prosecution, the claims should be directed towards the CG/GUI being the controller -in of itself- that actually does the preboot/booting and associated password entry/comparison (or whatever security related aspects are involved), without said functionality being a standard part of the operating environment/logic of the device post booted (i.e., as claimed in a sufficiently explicit manner).

Therefore, the rejection as supported by the references and '103 rejection combination and motivational criteria, collectively encompass the said claim limitations in their entirety. The examiner declines to reopen prosecution. Thus, any such claims submitted formally after final rejection would not be entered..